

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

CHARLEAN MCDONALD

PLAINTIFF

VS.

CIVIL ACTION NO. 5:05CV95-WHB-AGN

ENTERGY OPERATIONS, INC. AND
TERRI CARRADINE; JAMES M. COOLEY;
ATTORNEY BARBARA C. WALLACE;
UNUMPROVIDENT LIFE INSURANCE OF
AMERICA; T. ROWE PRICE RETIREMENT
PLAN SERVICES, INC.; AETNA LIFE
INSURANCE CO.; AND BENEFITS BILLING
SERVICE / CERIDIAN BENEFITS
CONTINUATION SERVICES

DEFENDANTS

OPINION AND ORDER

This cause is before the Court on the Motion to Dismiss of Defendant Aetna Life Insurance Company (hereinafter "Aetna"), which was filed with the Clerk of the Court on December 5, 2005. Plaintiff has not responded to the Motion, and the time limit for filing a response has expired. Therefore, pursuant to the authority granted this Court under Rule 7.2(c)(2) of the Uniform Local Rules of the United States District Courts for the Northern and Southern Districts of Mississippi,¹ the Court finds that the Motion to Dismiss is well taken and should be granted.

Dismissal of a case for failure to respond to a dispositive motion must be without prejudice. John v. State of Louisiana (Bd.

¹ Rule 7.2(c)(2) states "[i]f a party fails to respond to any motion, other than a motion for summary judgment, within the time allotted, the court may grant the motion as unopposed."

of Trustees for State Colleges and Universities), 757 F.2d 698, 709 (5th Cir. 1985); Arundar v. DeKalb County Sch. Dist., 620 F.2d 493, 493-95 (5th Cir. 1980). Based on the holdings in John and Arundar, Aetna must be dismissed *without* prejudice.

IT IS THEREFORE ORDERED that the Motion to Dismiss of Defendant Aetna Life Insurance Company (docket entry no. 23) is hereby granted. Defendant Aetna Life Insurance Company is hereby dismissed from this cause without prejudice.

SO ORDERED this the 3rd day of January, 2006.

s/ William H. Barbour, Jr.
UNITED STATES DISTRICT JUDGE

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